

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

David Cox,)
Plaintiff)
vs.) CIVIL ACTION
Ryan Marini, Sean Bordwell and) NO. 05-CV-11608
Andrew Kiriakos,)
Defendants)

**DEFENDANT'S, ANDREW KIRIAKOS, ANSWER,
AND AFFIRMATIVE DEFENSES TO AMENDED COMPLAINT**

Defendant, Andrew Kiriakos, respectfully, responds and answers as follows:

INTRODUCTION

1. Denied

PARTIES

2. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 2 of the Amended Complaint.

3. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 3 of the Amended Complaint.

4. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 4 of the Amended Complaint.

5. Admit.

JURISDICTION

6. Paragraph 6 of the Amended Complaint sets forth a Conclusion of Law to which no

answer is required.

7. Paragraph 7 of the Amended Complaint sets forth a Conclusion of Law to which no answer is required.

8. Paragraph 8 of the Amended Complaint sets forth a Conclusion of Law to which no answer is required.

9. Paragraph 9 of the Amended Complaint sets forth a Conclusion of Law to which no answer is required.

GENERAL ALLEGATIONS

10. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 10 of the Amended Complaint.

11. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 11 of the Amended Complaint.

12. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 12 of the Amended Complaint.

13. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 13 of the Amended Complaint.

14. Denied.

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 19 of the Amended Complaint.

20. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 20 of the Amended Complaint.

21. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 21 of the Amended Complaint.

22. The defendant states he is without information or knowledge sufficient to form a belief as to the truth of the allegation in paragraph 22 of the Amended Complaint.

COUNT I

(Conspiracy to Deprive the Plaintiff of his Constitutional Rights and Privileges Under 42 U.S.C. § 1985(3))

23. Defendant repeats his answers to paragraphs 1 -22 as if set forth herein.

24. Deny.

25. Deny.

26. Deny.

COUNT II

(Violation of the Massachusetts Civil Rights Act)

27. Defendant repeats his answers to paragraphs 1 -26 as if set forth herein.

28. Deny.

29. Deny.

COUNT III

(Assault and Battery)

30. Defendant repeats his answers to paragraphs 1 -29 as if set forth herein.
31. Deny.
32. Deny.

COUNT IV

(Intentional Infliction of Emotional Distress)

33. Defendant repeats his answers to paragraphs 1 -32 as if set forth herein.
34. Deny.
35. Deny.
36. Deny.
37. Deny.
38. Deny.

COUNT V

(False Imprisonment)

39. Defendant repeats his answers to paragraphs 1 -38 as if set forth herein.
40. Deny.
41. Deny.
42. Deny.

AFFIRMATIVE DEFENSES

1. Plaintiff's allegations fail to state a claim upon which relief can be granted.

2. Plaintiff's claims are barred by the applicable statute of limitations.
3. Plaintiff's claim is barred by the doctrine of Laches.
4. Plaintiff's claim fails due to insufficiency of process.
5. Plaintiff by his actions and conduct is barred from recovering any Judgment against this defendant.
6. To the extent Plaintiff sustained injury or loss, it was due to the conduct of some other person for whose conduct this defendant is not legally responsible.
7. Plaintiff's own negligence was more responsible for his injuries than the conduct of this defendant.
8. If this defendant is found liable, his then co – defendants Marini and Bordwell are also liable and this defendant is entitled to pro rata contribution.

DEFENDANT DEMANDS A JURY TRIAL ON ALL CLAIMS RAISED.

Defendant, Andrew Kiriakos,
By his attorney,

Paul L. Lees, Esq.
BBO # 556440
Lees Law Office
46 Middle Street
Gloucester, MA 01930
(978) 281-0777

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on

July 22, 2008

/s/ Paul L. Lees
